

AO 91 (Rev. 11/11) Criminal Complaint

United States District Court
Southern District of Texas
FILED

DEC 11 2020

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

David J. Bradley, Clerk
United States of America
v.Jose Guadalupe OROCIO
YOB: 1994
United States Citizen

Case No.

M-20-2765-M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 3, 2020 in the county of Hidalgo in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 U.S.C. § 922(g)(1)

Offense Description

Unlawful possession of a firearm which have affected interstate commerce,
by an individual having been convicted in any court of a crime punishable by
imprisonment for a term exceeding one year.

This criminal complaint is based on these facts:

Continued on the attached sheet and made part of this complaint:

~~Submitted by reliable electronic means, sworn to and attested to telephonically per Fed. R. Cr. P. 4.1, and probable
cause found on~~ *JSK*☒ Continued on the attached sheet.

/s/ Vincent Rubbo

Complainant's signature

Vincent Rubbo, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 12/11/2020*@ 4:44pm*City and state: McAllen, Texas
U.S. Magistrate Judge J. Scott Hacker
Printed name and title

ATTACHMENT A

The facts establishing the foregoing issuance of an arrest warrant are based on the following:

I, Special Agent Vincent Rubbo, affiant, do hereby depose and state the following:

1. I am a Special Agent of the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I have been a law enforcement officer since January of 2015. My duties include the investigation of violations of the federal firearms laws. I know it to be unlawful for any person who is a convicted felon, to possess or receive a firearm or ammunition which has been shipped or transported in interstate or foreign commerce. This criminal complaint is based on the following facts:
2. On April 3, 2020, your affiant received information from Federal Bureau of Investigation (FBI) SAs that Jose Guadalupe OROCIO, a previously convicted felon, had a credible threat against his life and was in possession of a firearm.
3. OROCIO was convicted of Title 8 U.S.C. § 1324(a)(1)(A)(ii): Transporting Aliens within the United States for private financial gain on April 26, 2016, in the United States District Court, Southern District of Texas and sentenced to 27 months incarceration and two years of supervised released.
4. On January 25, 2019, ORICIO was arrested by San Juan, Texas Police Department, and charged with Felony Theft of Property More Than \$2,500 Less Than \$30,000. In July of 2019, OROCIO was indicted by Grand Jury in the 139th Judicial District Court of Hidalgo County, TX, Court Case # CR-3190-19-A, filed August 15, 2019.
5. On April 3, 2020, FBI Agents responded to OROCIO's last known address in Edinburg, Texas. FBI Agents knocked and announced their presence at the front door of the apartment where they encountered a 9-year old child home alone in the residence.
6. Based on the threat and endangerment to the child, law enforcement officers conducted a check of the apartment and discovered, in plain view, one Smith & Wesson pistol on top of a nightstand adjacent to the bed in the master bedroom. The S&W pistol appeared to be loaded with a magazine inserted.
7. On April 3, 2020, ATF SAs responded to the apartment in Edinburg, Texas. ATF SAs observed a Smith & Wesson (S&W), model SD40, .40 caliber pistol, bearing serial number FWH1544 loaded with fourteen (14) rounds of Speer, .40 S&W caliber ammunition loaded in the magazine on top of the nightstand adjacent to the master bedroom bed and a baby crib and changing station.

8. Law enforcement officers established contact with OROCIO via telephone to meet in person at the apartment. OROCIO advised that he had gone on an errand and would be on the way back to meet with Investigators at the apartment. OROCIO did not return to the apartment. OROCIO's attorney notified law enforcement that OROCIO would not meet with the Investigators.
9. Law enforcement officers made contact with OROCIO's wife, who stated she was currently in Mexico and OROCIO was responsible for taking care of their child.
10. An individual identified OROCIO as the current adult/male tenant occupying the apartment. The individual observed OROCIO's vehicle parked in the carport on April 3, 2020. In addition, the apartment is leased under "Jose G. Orozio III" and his wife's name.
11. Lastly, an ATF Special Agent trained in Firearms Interstate Nexus examined the firearm and ammunition and determined the firearm and ammunition were manufactured outside the state of Texas, therefore traveled in and affected interstate commerce.